IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4283 of 2007()

CMP.5253/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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REVN. PETITIONER:

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1. ABDULKHADER @ BAPPU,
   KACHERY KALICHATH HOUSE,
   MANGALAM P.O., MALAPPURAM DISTRICT.

2. JALEEL, S/O ABDULKHADER @ BAPPU,
   KACHERY KALICHATH HOUSE, MANGALAM P.O.,
   MALAPPURAM DISTRICT.

3. RANEESH BABU, S/O SAIDUMUHAMMED,
   KACHERY KALICHATH HOUSE, MANGALAM P.O.,
   MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. MALLIKA.C, 42 YEARS, W/O LOHITHAKSHAN,
   PULIKKAL HOUSE, MANGALAM P.O.,
   MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. P. RAVEENDRAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 4283 of 2007

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Dated: 04-12-2007

ORDER

Revision petitioners who are accused Nos. 2 to 4 in Crime No. 1221 of 2007 of Tirur Police Station which was registered pursuant to an order passed by the J.F.C.M., Tirur under Sec. 156 (3) Cr.P.C. in a private complaint submitted by the 2nd respondent Mallika and which was numbered as C.M.P. 5253 of 2007. The aforesaid crime has been registered for an offence punishable under Sections 3(1)(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 341 and 323 read with Sec. 34 I.P.C. Prior to this, the Tirur Police had registered Crime No. 543 of 2007 of under Sec. 160 I.P.C. against 14 accused persons who include the complainant as well as accused Nos. 1 to 4 in Crime No. 1221 of 2007. Upon the police submitting a final report for an offence punishable under Sec. 160 I.P.C., the learned Magistrate has taken cognizance of the said offence and has registered the case as C.C. No. 1143 of 2007. In fact, the occurrence forming the subject matter of Crime No. 1221 of 2007 and Crime No. 543 of 2007 is one and the same though different offences alleged. In the fitness of things, on receipt of the private complaint filed by Mallika and registered as C.M.P. No. 5253 of 2007, the learned Magistrate should not have forwarded the same to the police under Sec. 156 (3) Cr.P.c. Instead, he should have conducted an enquiry under Sec. 202 Cr.P.C. after taking cognizance of the offences and ought to have posted the case along with C.C. No. 1143 of 2007 which is the case arising from Crime No. 543 of 2007. Since the occurrence in both the cases is one and the same , though the number of accused persons and the

offences are different, in both the cases cannot be clubbed together but can only be tried by the same court one after the other and the judgment should be pronounced in quick succession as was observed in ***Harjinder Singh v. State of Punjab - AIR 1985 SC 404, State of M.P. v. Mishrilal and Others - (2003) (9) SCC 426*** and ***Samuel Mathai and Others v. Sate of Kerala and Another - 2007 (3) KHC 682.***

2. Accordingly, the order dated 2-11-2007 in C.M.P. No. 5253 of 2007 passed by the Magistrate forwarding the complaint to the Magistrate under Sec. 156 (3) Cr.P.C. is set aside and the Magistrate is directed to take the complaint on file and conduct an enquiry. In case cognizance of the offences mentioned therein is taken, the case shall be posted along with C.C. 1143 of 2007 for separate trial and disposal in quick succession as directed in the rulings referred to above.

This Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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